

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3221

IN THE MATTER OF:

Served August 23, 1988

Application of TRI STATE CASINO)
TOURS, INC., for Temporary)
Authority -- Charter and Special)
Operations)

Case No. AP-88-29

By Order No. 3197, served July 12, 1988, the Commission gave notice of an application filed July 6, 1988, by Tri State Casino Tours, Inc. (Tri State or applicant), seeking temporary authority to transport passengers, together with mail, express, and baggage in the same vehicle as passengers, between points in the Metropolitan District */ in charter and special operations. Order No. 3197 generally described the evidence submitted with the application and provided for the filing of protests by July 22, 1988. On July 20, 1988, counsel for Gold Line, Inc., and National Coach Works, Inc., filed a request for extension of time. On July 21, 1988, applicant filed its opposition to the request. The request was denied by Order No. 3212, served July 22, 1988. On that same date Gold Line, Inc., and National Coach Works, Inc., filed a joint protest to this application.

On July 20, 1988, in response to a footnote in Order No. 3197, Tri State filed a revised tariff clarifying its proposed rates. Tri State's revenue equipment consists of four motor coaches manufactured between 1973 and 1988 and ranging in seating capacity from 43 to 47. Two of these it classifies as "luxury," and two as "deluxe." Applicant's proposed charter rates for "luxury" vehicles are \$50 an hour for trips up to 10 hours, with a 5-hour minimum of \$250. For trips of 10 to 20 hours, the proposed charter rate is \$40 an hour, with a minimum of \$400. For "deluxe" vehicles, the proposed charter rates are \$40 an hour for trips up to 10 hours, with a 5-hour minimum of \$200. For trips of 10 to 20 hours, the proposed charter rate is \$35 an hour, with a \$350 minimum. The proposed rate for special operations is \$15 per person, per trip.

Applicant submitted four notarized statements from potential customers. Ms. Shirley Norwood is vice-president and co-owner of Tailored Tours, Inc. Ms. Norwood states that Tailored Tours "has an immediate and urgent need for the services of [Tri State] that no other

*/ To the extent that this application could be interpreted to include transportation solely within the Commonwealth of Virginia, it was dismissed by Order No. 3197, pursuant to Title II, Article XII, Section 1(b) of the Compact.

carrier in the area is possibly capable of fulfilling." Ms. Norwood points to applicant's "ultra luxurious, executive" coaches "which are so specialized as to constitute a whole new class of bus equipment." In addition, Tailored Tours has an immediate peak season need for applicant's standard coaches. Ms. Norwood states that the demand for buses has "skyrocketed" and existing carriers often have no equipment available at all. In addition, Tailored Tours has found some existing services unsatisfactory. Ms. Norwood also notes that buses of the Washington Metropolitan Area Transit Authority are no longer available for charter service. Ms. Norwood describes Tailored Tours' current situation as "desperate" and "urgent" and asks that the Commission grant temporary authority.

Ms. Elaine Curl is president and owner of The Convention Store and describes the need for applicant's service as "immediate and urgent." The Convention Store is experiencing a major increase in convention activities. It is averaging about two conventions a month and needs 25 buses to handle up to 25,000 persons per convention. The demand requires increased coach availability. Ms. Curl lists carriers currently used, and states that more equipment is needed. In addition, The Convention Store has had some difficulties with existing service. Ms. Curl states that Tri State's four coaches "will merely help us to meet part of the increasing demands for more equipment."

Mr. Kenneth Victor, president and owner of Beacon Travel, Inc., states that demand for bus equipment is currently high, but most buses are booked months in advance. Mr. Victor states that Beacon could use Tri State on 50 percent of its traffic at once. Mr. Victor describes bus service from other carriers as "awful" and states that Beacon has "an urgent, immediate need for Tri State Casino Tours to at once serve us." Beacon has used Tri State for ICC trips.

Ms. Jean F. Carcione is president and owner of National Fine Arts Associates, Inc. (NFAA). Ms. Carcione states that demand is high now, with tour groups ranging "from 25 to 47 passengers (with baggage or cameras, etc.) per bus used," with as many as six full bus loads per group. Ms. Carcione says that NFAA "must have more equipment to meet heavy demands in the next six months. There is an immediate and urgent need for us to have buses and services from Tri State Casino Tours, Inc." Ms. Carcione requires applicant's luxury coaches. NFAA has tried to use some existing carriers "with some disastrous results to our customers," and asserts that there are "insufficient good services from currently available carriers."

Joint protestants Gold Line, Inc. (Gold Line), and National Coach Works, Inc. (NCW), are WMATC-certificated carriers. Gold Line holds extensive charter and special operations authority, and NCW holds extensive charter operations authority. Gold Line states that it operates a fleet of 60 motor coaches, including one luxury vehicle comparable to the two luxury vehicles of Tri State. Gold Line further states that it once operated more luxury units, but they were discontinued for lack of demand.

Joint protestants assert that applicant has failed to show any need for service, and that its four coaches -- already serving other commitments -- would add little to the existing supply. Joint protestants characterize Tailored Tours as a chronic supporter of applications that has not used the services of Gold Line or NCW. Joint protestants wonder why The Convention Store needs a four-bus operator when it handles thousands of convention delegates and uses 25 to 35 vehicles at a time. They speculate that The Convention Store is interested only in constantly increasing the pool of available equipment. Joint protestants see the need of Beacon Travel and Tailored Tours for luxury equipment as a suddenly-acquired taste. Beacon Travel, they suggest, has little or no need for local service, and has not exhausted all available sources in its search for it. Joint protestants opine that National Fine Arts Associates' primary concern is price and assert that it has never sought service from joint protestants. Joint protestants conclude (1) "that the supporting companies have not begun to utilize the abundance of charter service available," (2) that there "is nothing to show they are not obtaining sufficient equipment to meet their needs," and (3) that "there is nothing . . . to show that this small carrier with only four buses [and existing service commitments] would make any contribution to increasing the equipment supply."

These arguments of joint protestants go to charter operations; it is their position that applicant's supporting witnesses have expressed no interest in special operations.

Applications for temporary authority are governed by the Compact, Title II, Article XII, Section 4(d)(3). Under this section the applicant is required to show that there is an immediate and urgent need for the service it proposes and that there is no carrier service capable of meeting such need. Applicant is also required to show that it is fit to conduct the proposed service.

We start with special operations, which include individual-fare service where the carrier packages transportation for a tour or event and markets the package to the public. Special operations lack the affinity group that characterizes charter operations. Although Tri State seeks temporary authority for special operations and has proposed a rate of \$15 per person, per trip, it has specified no special operations that it proposes to provide. Moreover, a fair reading of the supporting statements indicates that it is charter operations that are being discussed, even though applicant's supporters are less than specific on this point. We find that applicant has not met its burden of proof with regard to special operations.

We are persuaded, however, that applicant has shown an immediate and urgent need for charter operations. This need is represented by four strong affidavits from firms that need and use a large volume of charter service and are clearly familiar with the suppliers and availability of such service. These are experienced consumers of charter service who have tried various suppliers and types of equipment, often finding the service they need unavailable or

inadequate. Gold Line is perhaps the largest supplier of charter service in the local market, and protestations that their offerings have been overlooked seem unlikely. We find that existing carrier service is not capable of meeting the need expressed by affiants. We are not persuaded that applicant's four vehicles are not needed because they cannot provide all of the service that is needed.

What comes across most clearly is that all of the requirements of these firms are not being met. They need additional service, and they support the applicant's desire to provide what it can. At least half the affiants have used Tri State's service authorized by the Interstate Commerce Commission (ICC) and have found it satisfactory.

Tri State is an experienced ICC operator with offices in Washington, DC, and operating facilities in Virginia outside the Metropolitan District. As our insurance requirements for the vehicles operated by Tri State are the same as ICC's, we anticipate applicant could comply with our insurance requirements, and do so at little or no additional expense. We have examined Tri State's balance sheet noting a net loss of \$32,605 for the year ended September 30, 1987, and a deficit to retained earnings of \$153,860 as of that same date. We are aware, too, that applicant is a going concern, that the additional vehicle utilization that could be made possible by a grant of temporary authority may well improve Tri State's 113 percent operating ratio, and that the limit of temporary authority is only 180 days. Applicant has apparently been careful not to provide service between points in the Metropolitan District without WMATC operating authority, and its careful attention to Commission requirements with regard to this application is a further indicator of its compliance fitness. We find applicant fit for a grant of temporary authority to conduct charter operations, noting that this creates no presumption that corresponding permanent authority will be granted thereafter. [See Compact, Title II, Article XII, Section 4(d)(3), and Case No. AP-88-29, Application of Tri State Casino Tours, Inc., for a Certificate of Public Convenience and Necessity.]

THEREFORE, IT IS ORDERED:

1. That Tri State Casino Tours, Inc., is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers for hire in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia.

2. That Tri State Casino Tours, Inc., is hereby directed to file with the Commission (a) two copies of its WMATC Temporary Authority Tariff No. 1, revised to delete special operations; (b) an affidavit certifying compliance with Commission Regulation No. 68 governing identification of vehicles; and (c) an insurance certificate in compliance with Commission Regulation No. 62.

3. That, unless Tri State Casino Tours, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order, the conditional grant of temporary authority contained herein shall be void and this application shall stand denied effective upon the expiration of said compliance time.

4. That, upon timely compliance with the requirements of this order, the Executive Director shall notify Tri State Casino Tours, Inc., in writing, that it may commence operations pursuant to temporary authority, whereupon the grant of such temporary authority shall become effective.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director